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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SEUNGUP PAEK, ANA BENITEZ, and SHIH-FU CHANG

Appeal 2008-0462
Application 09/830,899
Technology Center 2100

Decided: May 20, 2008

Before JAMES D. THOMAS, ST. JOHN COURTENAY III, and
STEPHEN C. SIU, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-43. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

THE INVENTION

The disclosed invention relates generally to techniques for describing multimedia information. More particularly, Appellants' invention is directed to techniques which describe both video and image information as well as to the content of such information (Spec. 1).

Independent claims 1 and 33 are illustrative:

1. A system for generating a description record from multimedia information, comprising:
 - (a) at least one multimedia information input interface receiving said multimedia information;
 - (b) a computer processor, coupled to said at least one multimedia information input interface, receiving said multimedia information therefrom, processing said multimedia information by performing object extraction processing to generate multimedia object descriptions from said multimedia information, and processing said generated multimedia object descriptions by object hierarchy processing to generate multimedia object hierarchy descriptions indicative of an organization of said object descriptions, wherein at least one description record including said multimedia object descriptions and said multimedia object hierarchy descriptions is generated for content embedded within said multimedia information; and
 - (c) a data storage system, operatively coupled to said processor, for storing said at least one description record.
33. A computer readable media containing digital information with at least one multimedia description record describing multimedia content for corresponding multimedia information, the description record comprising:

(a) one or more multimedia object descriptions, generated by performing object extraction processing, said object descriptions describing corresponding multimedia objects;

(b) one or more features characterizing each of said multimedia object descriptions; and

(c) one or more multimedia object hierarchy descriptions indicative of an organization of said object descriptions, if any, relating at least a portion of said one or more multimedia objects in accordance with one or more characteristics.

THE REFERENCE

The Examiner relies upon the following reference as evidence in support of the rejection:

Eleftheriadis	US 6,079,566	Jun. 27, 2000
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THE REJECTION

Claims 1-43 stand rejected under 35 U.S.C. §102(b) as being anticipated by Eleftheriadis.

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375-76 (Fed. Cir. 2005) (citation omitted). “Anticipation of a patent claim requires a finding that the claim at issue ‘reads on’ a prior art reference.” *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346 (Fed Cir. 1999) (“In other words, if granting patent protection on

the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art.”) (internal citations omitted).

ANALYSIS

Independent Claims 1, 17, and 33

We consider the Examiner’s rejection of independent claims 1, 17, and 33 as being anticipated by Eleftheriadis.

After reviewing the record before us, we address arguments presented in the Briefs only to the extent that Appellants’ arguments are directed to claimed subject matter. Patentability is based upon the claims. “It is the *claims* that measure the invention.” *SRI Int’l v. Matsushita Elec. Corp. of America*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (*en banc*). “Moreover, limitations are not to be read into the claims from the specification.” *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

Regarding independent claims 1 and 17, Appellants contend that Eleftheriadis does not disclose “performing object extraction processing to generate multimedia object descriptions,” as required by the language of claims 1 and 17 (App. Br. p. 7-8 and p. 9, ¶1).

We disagree.

Claim Construction

During prosecution, “the PTO gives claims their ‘broadest reasonable interpretation.’” *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). “[T]he words of a claim ‘are generally given their ordinary and customary meaning.’” *Phillips v.*

AWH Corp., 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (internal citations omitted). “[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application.” *Phillips*, 415 F.3d at 1313.

Here, we find that a person of ordinary skill in the art would have reasonably construed the plain meaning of the claim term “generate” to broadly read not only on *creating* multimedia object descriptions, but also on *reproducing* or *propagating* multimedia object descriptions. Thus, while Appellants’ interpretation is directed to the creation (i.e., generation) of multimedia object descriptions as *a result* of object extraction processing, we conclude that a broad but reasonable interpretation of the claim language is not so limiting.

In particular, we conclude that Appellants’ use of the claim term “generate” does not preclude performing object extraction processing to *reproduce* or *propagate* existing multimedia object descriptions, such as reading a MPEG-4 file (i.e., object extraction processing) to reproduce or propagate multimedia object descriptions (e.g., MPEG-4 format data) as necessary to decode and play the MPEG-4 file on a player, as clearly disclosed by Eleftheriadis at column 7, lines 37-40 (“The read operation module **290** accesses an object table **370** for translation purposes and communicates extracted audiovisual data to MPEG-4 player **360** . . .”).

Applying the same rationale, we likewise agree with the Examiner that Eleftheriadis discloses “one or more multimedia object descriptions, generated [i.e., reproduced or propagated] by performing object extraction,”

as similarly recited in independent claim 33 and argued by Appellants on page 10 of the principal Brief.

Appellants further contend that Eleftheriadis does not disclose “processing said generated multimedia object descriptions by object hierarchy processing to generate multimedia object hierarchy descriptions,” as required by the language of independent claims 1 and 17 (App. Br. 10). Appellants also contend that Eleftheriadis does not disclose the “one or more multimedia object hierarchy descriptions indicative of an organization of said object descriptions,” as recited in independent claim 33 (App. Br. 11).

We disagree, and again apply the same rationale discussed above in construing the scope of claim term “generate” to broadly but reasonably read on *reproducing* or *propagating* multimedia object descriptions. Regarding the claimed multimedia object *hierarchy* descriptions, we find Eleftheriadis discloses multimedia object descriptions (i.e., descriptions of audiovisual objects) arranged in a tree structure (i.e., hierarchy), as follows:

The *audiovisual objects* are transmitted to a receiving terminal along with *scene description information*, which defines how the objects should be positioned in space and time, in order to construct the scene to be presented to a user. The scene description follows a *tree structured approach*, similar to the Virtual Reality Modeling Language (VRML) known in the art. The encoding of such scene description information is more fully defined in Part 1 of the official ISO MPEG-4 specification (MPEG-4 Systems), known in the art [emphasis added].

(Eleftheriadis, col. 3, ll. 33-42).

Moreover, Eleftheriadis expressly discloses that “the system, method and medium of the invention provides a *hierarchical*, abstracted access layer to the underlying component AV [audiovisual] objects” (col. 2, ll. 19-

22, emphasis added). We also direct Appellants attention to the hierarchy of description information for the MPEG-4 file 100 that is shown in Figure 1 of the Eleftheriadis reference. See also Eleftheriadis, column 3, lines 60-61 (“The AL [Adaption Layer] is positioned hierarchically . . .”).

For at least the aforementioned reasons, we find the weight of the evidence supports the Examiner’s position. Because we conclude that Appellants have not shown the Examiner erred, we sustain the Examiner’s rejection of independent claims 1, 17, and 33, as being anticipated by Eleftheriadis.

Dependent claims 3, 7, 10, 15, 19, 23, 26, and 31

Regarding claims 3, 7, 10, 15, 19, 23, 26, and 31, Appellants contend that Eleftheriadis does not disclose the limitation of “feature extraction processing.” (App. Br. 12-13).

We disagree. We note again that Eleftheriadis discloses extracting audiovisual data (i.e., feature extraction processing) at column 7, lines 37-40 (“The read operation module **290** accesses an object table **370** for translation purposes and communicates extracted audiovisual data to MPEG-4 player **360** . . .”). Eleftheriadis also discloses “extracting data in a file” where the extracted data includes “a sequence of audiovisual segments containing audiovisual objects [i.e., “features”] . . .” (col. 2, ll. 5-10). Because we find Eleftheriadis discloses feature extraction processing, we sustain the Examiner’s rejection of dependent claims 3, 7, 10, 15, 19, 23, 26, and 31 as being anticipated by Eleftheriadis.

Dependent claims 2, 4, 5, 6, 8, 9, 11-14,
16, 18, 20, 21, 22, 24, 25, 27, 28-30, 32, and 34-43

Appellant has not presented any substantive arguments directed separately to the patentability of dependent claims 2, 4, 5, 6, 8, 9, 11-14, 16, 18, 20, 21, 22, 24, 25, 27, 28-30, 32, and 34-43. Therefore, we sustain the Examiner's rejection of these claims as being anticipated by Eleftheriadis. *See In re Young*, 927 F.2d 588, 590 (Fed. Cir. 1991). *See also* 37 C.F.R. § 41.37(c)(1)(vii).

REPLY BRIEF

We note that the Reply Brief is properly used to respond to points of argument raised by the Examiner in the Answer and not as a means for presenting new arguments. *See Optivus Tech., Inc. v. Ion Beam Applications S.A.*, 469 F.3d 978, 989 (Fed. Cir. 2006) (an issue not raised in an opening brief is waived). We have fully considered the responses in the Reply Brief to the extent that Appellants restate previous arguments or address new points raised by the Examiner in the Answer. However, we decline to address any new arguments not originally presented in the principal Brief. It is our view that Appellants' contentions in the Reply Brief are premised upon an overly narrow interpretation of the claim term "generate." As discussed *supra*, we conclude that a broad but reasonable interpretation of the aforementioned claim term is not so limiting. With respect to all claims before us on appeal, arguments which Appellants could have made but chose not to make have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii). *See also In re Watts*, 354 F.3d 1362, 1368 (Fed. Cir. 2004).

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that Appellants have not met their burden of showing that the Examiner erred in rejecting claims 1-43 under 35 U.S.C. § 102(b) for anticipation.

DECISION

We affirm the Examiner's decision rejecting claims 1-43.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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